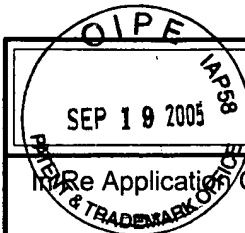


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**TRANSMITTAL LETTER
(General - Patent Pending)**

Docket No.
US000395 (17498)

Re Application Of: Eric Cohen Solal

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
09/738,650	December 15, 2000	Brian P. Yenke	23389	2614	1565

Title: A SURVEILLANCE SYSTEM WITH SUSPICIOUS BEHAVIOR DETECTION

COMMISSIONER FOR PATENTS:

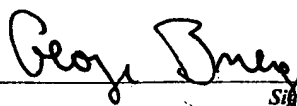
Transmitted herewith is:

APPEAL BRIEF

in the above identified application.

- ☐ No additional fee is required.
- ☒ A check in the amount of \$500.00 is attached.
- ☒ The Director is hereby authorized to charge and credit Deposit Account No. 19-1013/SSMP as described below.
 - ☐ Charge the amount of
 - ☒ Credit any overpayment.
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Signature

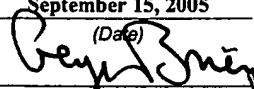
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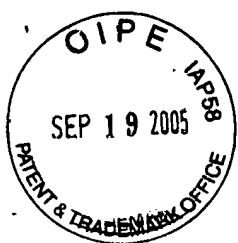


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APPEAL BRIEF

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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES
OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant: Eric Cohen Solal

Examiner: Brian P. Yenke

Serial No: 09/738,650

Art Unit: 2614

Filed: December 15, 2000

Docket: (US000395) 17498

For: A PICTURE-IN-PICTURE
REPOSITIONING AND/OR RESIZING
BASED ON VIDEO CONTENT
ANALYSIS

Date: September 15, 2005

Confirmation No.: 1565

Mail Stop Appeal Brief- Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF

Sir:

Pursuant to 35 U.S.C. § 134 and 37 C.F.R. § 41.37, entry and consideration of this Appeal Brief in support of the Notice of Appeal filed on July 15, 2005, in the above-identified Application is respectfully requested. This Brief is submitted to set forth arguments upon which Appellant relies in support of the appeal from the final rejection of claims 1 and 3-11 set forth in an Office Action mailed on April 19, 2005, in the above-identified patent Application.

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I. REAL PARTY IN INTEREST

The real party in interest in the above-identified patent Application is Koninklijke Philips Electronics N.V.

II. RELATED PROCEEDINGS

There are no pending appeals or interferences related to this Application to Appellant's knowledge.

III. SUPPORTING EVIDENCE

No affidavits, documents, or other evidence is being entered into the record at this time in support of this Appeal.

IV. STATUS OF CLAIMS

Claims 1 and 3-11 are pending in the present Application. Claim 2 is canceled without prejudice or disclaimer.

All of the pending claims stand rejected. Claims 1, 3-8 and 10-11 are rejected under 35 U.S.C. 103¹ as being obvious over Appellant's Admitted Prior Art (AAPA). Claim 9 is

¹ The 35 U.S.C. § 103 rejection detailed on pages 2-3 of the Office Action states near the bottom of page 2 that the claims are rejected under 35 U.S.C. § 102(b). However, when the rejection is read in its entirety, including the Examiner's attempted combination of different references cited by Appellant's Specification (Office Action, page 3), and the recitation on page 3 that "[t]herefore, it would have been clearly obvious ... to modify" the alleged AAPA cited, it seems that a rejection under 35 U.S.C. § 103 was intended. Accordingly, Appellant responds to the rejection as a rejection under 35 U.S.C. § 103.

rejected under 35 U.S.C. 103 as being obvious over Appellant's Admitted Prior Art (AAPA) in view of Rainville, U.S. Patent Application Publication No. 2002/0069411.

Claims 1 and 3-11 are the claims being appealed.

V. STATUS OF AMENDMENTS

Amendments under 35 U.S.C. § 1.111 were filed on April 21, 2004 and October 4, 2004 amending the claims. An Amendment under 35 U.S.C. § 1.116 was filed on May 31, 2005 contained no claim amendments.

All claim amendments have been entered into the record. No claim amendments were filed after the final rejection and no claim amendments are pending.

VI. SUMMARY OF CLAIMED SUBJECT MATTER

The invention as claimed in claim 1 is directed to a video display device, including a display (Figure 1, 110; Specification, page 5, line 17 – page 6, line 7) that displays a primary image (Figure 2A, 210B; Specification, page 7, line 23 - page 8, line 11) overlaid with a PIP (picture in picture, Figure 2A, 210A; Specification, page 7, line 19 – page 8, line 21), and a processor (Figure 1, 125) coupled to the display for receiving video streams for the primary image and for the PIP.

The processor changes a PIP display characteristic, such as PIP position, size, transparency (Specification, page 11, lines 14-19), based on a characteristic of the primary image, such as a continuous color or a continuous texture of the primary image (Specification, page 10, lines 8-19; Figure 3).

The invention as claimed in claim 4 is directed to the video display device of claim 1, and the processor is configured to position the PIP over the primary image in such a way that overlaying of a person image (Figure 2A-C) in the primary image is minimized (Specification, page 14, line 20 – page 15, line 5; Figure 2C), when the characteristic is present in the primary image.

The invention as claimed in claim 5 is directed to the video display device of claim 1, and the processor is configured to analyze a frame of the primary image to determine whether or not a person image is present (Specification, page 14, line 20 – page 15, line 5) and whether or not a continuous color portion or a continuous texture portion is present (Specification, page 10, line 5 – page 15, line 6) as the characteristic in the primary image.

The invention as claimed in claim 9 is directed to the video display device of claim 1, and the processor is configured to overlay the PIP over the primary image in such a way that the PIP is transparent (Specification, page 18, line 10 – 18), when the characteristic is present in the primary image.

VII. GROUNDS OF REJECTION FOR REVIEW

The rejection of claims 1, 3-8 and 10-11 under 35 U.S.C. 103 as being obvious over Appellant's Admitted Prior Art (AAPA) is improper.

The rejection of claim 9 under 35 U.S.C. 103 as being obvious over Appellant's Admitted Prior Art (AAPA) in view of Rainville, U.S. Patent Application Publication No. 2002/0069411 is improper.

VIII. ARGUMENTS

Group (1): Claims 1, 3, 6-8, 10 and 11

Independent claim 1 requires that the processor change a PIP display characteristic in response to the determination that at least one characteristic is present in the primary image, the primary image characteristic being at least one of a continuous color portion and a continuous texture portion.

Among the problems recognized and solved by Appellant's claimed invention is that of repositioning (resizing etc.) a PIP based on what portion(s) of a screen are relatively less important irrespective of motion (Appellant's Specification, page 2, lines 21-24). According to an aspect of Appellant's claimed invention, a PIP may be positioned (or sized etc.) based on a characteristic, such as a continuous color or a continuous texture of the primary image to minimize disruption or obstruction of the primary image. For example, according to an aspect of Appellant's claimed invention, the PIP display may be changed upon determining that a characteristic in the primary image, such as a continuous color portion, is present, by repositioning the PIP over the continuous portion detected.

Features of Claim 1 Not Disclosed

The Examiner does not allege that all elements of any claim are disclosed by any single reference. However, the Examiner cites pages 1-3 of the Specification, which describes a reference (alleged by the Office Action to be admitted prior art) that discloses a picture in picture (PIP) that is repositioned in response to detected motion between frames of a video image and discloses changing the size of the displayed PIP.

Next, the Examiner cites pages 10, 11 and 13-17 of Appellant's disclosure, where references are cited that disclose analyzing a picture signal to determine the presence of continuous color, text, or person images in the received picture signal. These references disclose image segmentation methods for image processing purposes and computer vision applications. For example, segmentation methods may be useful in image data compression.

The cited references, even when taken together, do not disclose or suggest a relationship between the detection of the presence of a characteristic, such as a continuous color pattern in the primary image, and changing the PIP display characteristic, such as the position of the PIP. That is, the AAPA does not disclose or suggest changing a PIP characteristic, such as the position of the PIP, in response to a characteristic in the primary image, such as a continuous color portion detected in the primary image. Clearly, the AAPA does not disclose or suggest that a PIP display characteristic is changed in response to the determination that the at least one characteristic is present in the primary image, the characteristic being at least one of a continuous color portion and a continuous texture portion, as further required by independent claim 1.

Accordingly, the rejection of claim 1 whether under 35 U.S.C. § 103 or under 35 U.S.C. § 102 is improper because the recitations of independent claim 1 are not disclosed or suggested by the cited references, even when combined.

Lack of Motivation

Appellant respectfully submits that there would have been no suggestion or motivation for combining and modifying the references as proposed. The Office Action states that modifying the "AAPA which discloses the changing of a PIP display based on motion, by also changing the PIP display based upon the importance/non-importance of a scene(s) to ensure

the viewer is able to view the desirable portions of an image” (Office Action, page 3) would have been obvious.

It is respectfully submitted that the general teaching advanced in the Office Action “changing the PIP display based upon the importance/non-importance of a scene(s)” would not have led a person of ordinary skill to the solutions claimed in independent claim 1 of Appellant’s invention. It is respectfully submitted Appellant’s invention as claimed in claim 1 would not have been obvious from “the importance/non-importance of a scene(s)” teaching, even if disclosed in the prior art. For example, the relationship between the detection of a continuous color pattern in the primary image, and changing the position of the PIP, would not have been obvious based on the general motivation advanced.

The cited references do not disclose or suggest the above-identified problems recognized by Appellant’s claimed invention. For example, the cited references do not disclose or suggest the problem of repositioning (resizing etc.) a PIP based on what portion(s) of a screen are relatively less important irrespective of motion. Therefore, the solutions provided by Appellant’s invention would not have been obvious from the cited references. Accordingly, the cited references belong to the conventional art identified by Appellant’s claimed invention provide no suggestion or motivation for combining the references as proposed, and do not even remotely disclose or suggest Appellant’s invention as claimed in claim 1. Further, the cited references belong to the conventional art because they do not disclose or suggest the solution that a PIP may be positioned or sized based on a continuous color or a continuous texture of the primary image. Therefore, Appellant’s invention as claimed in claim 1 would not have been obvious to a person of ordinary skill in the art without resort to impermissible hindsight reconstruction based on Appellant’s own disclosure.

The remaining claims, claims 3-11 all depend from independent claim 1 and thus incorporate novel and nonobvious features thereof. Accordingly, claims 3-11 are patentably distinguishable over the prior art for at least the reasons that independent claim 1 is patentably distinguishable over the prior art. Therefore, the rejections of the claims are improper.

Group (2): Claims 4 and 5

Claims 4 and 5 depend from independent claim 1 and thus their rejection is improper if the rejection of independent claim 1 is improper. In addition, claims 4 and 5 are separately patentable over the prior art for the following reason.

Claim 4 requires, *inter alia*, that the PIP positioned to minimize overlaying the PIP with respect to a person image. Claim 5 requires, *inter alia*, determining whether a person image is present.

The Examiner does not explain how the cited prior art allegedly discloses determining whether a person image is present as a characteristic in response to which the PIP is positioned (or some other PIP display characteristic is changed), as *inter alia* required by claim 5. Further, the Examiner does not explain how the cited prior art allegedly discloses minimizing overlay of the PIP with respect to the person image, as *inter alia* required by claim 4. Therefore, the cited art does not disclose or suggest Appellant's invention as claimed in claims 4 and 5.

Moreover, even if the Examiner were to cite prior art teachings of determining a person image in a frame of video data, Appellant's invention as claimed in claims 4 and 5 would still not be obvious from the cited art because claims 4 and 5 require changing a PIP display characteristic in response to such a person image, and minimizing overlay of the PIP with respect

to the person image, respectively. Such features, or even problems that call for solutions involving such features, are not disclosed or suggested by the cited prior art.

Group (3): Claim 9

Claims 9 depends from independent claim 1, and thus the rejection of claim 9 is improper if the rejection of independent claim 1 is improper. In addition, claim 9 is separately patentable over the prior art for the following reason.

Claim 9 requires that the PIP transparently overlay a portion of the primary image when the characteristic is present in the primary image.

Rainville discloses providing a transparent view when a PIP of webpage is provided on a television image. However, Rainville does not disclose or suggest a transparent overlay of a PIP based on a characteristic present in the primary image. That is, Rainville and the cited art do not disclose or suggest an association between a primary image characteristic, such as a continuous color portion or continuous texture portion, and a transparent overlay of the PIP. Accordingly, Rainville and the cited art do not disclose or suggest the recitations of claim 9.

Further, such a combination would not have been obvious, because Rainville and the cited art do not disclose or suggest a teaching that would have suggested or motivated for such a combination. Rainville and the cited art do not disclose or suggest the above-discussed problems recognized and solved by Appellant's invention as claimed in claim 9. For example, the problem of changing a display characteristic of a PIP, for example, transparency, based on what portion(s) of a screen are relatively less important, for example, when the characteristic is present in the primary image, is not disclosed or suggested by Rainville and the cited art.

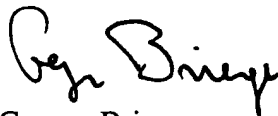
Accordingly, it is respectfully submitted that Appellant's invention as claimed in claim 9 would not have been obvious from Rainville and the cited art.

IX. CONCLUSION

Based on the arguments set forth herein, Appellant respectfully submits that the rejections of the claims on appeal in the instant Application should be reversed, and that the Application should now be allowed.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment in connection herewith to Deposit Account No. 19-1013/SSMP.

Respectfully submitted,



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X. CLAIM APPENDIX

CLAIMS ON APPEAL: CLAIMS 1 and 3-11

Application Serial No. 09/738,650

1. A video display device comprising:

a display configured to display a primary image and a picture-in-picture image (PIP) overlaying the primary image; and

a processor operatively coupled to the display and configured to receive a first video data stream for the primary image, to receive a second video data stream for the PIP, and to change a PIP display characteristic in response to at least one characteristic present in the primary image,

wherein the PIP display characteristic is at least one of a position of the PIP on the display, a display size of the PIP, and a transparency of the PIP;

said processor being configured to determine that the at least one characteristic is present in the primary image, the characteristic being at least one of a continuous color portion and a continuous texture portion.
2. (Cancelled)
3. The video display device of Claim 1, wherein said processor is configured to position the PIP on at least one of the continuous color portion and the continuous texture portion after determination of the presence of the characteristic present in the primary image.

4. The video display device of Claim 1, wherein said processor is configured to position the PIP so as to minimize overlaying of the PIP with respect to a person image on the at least one frame after determination of the presence of the characteristic present in the primary image.

5. The video display device of Claim 1, wherein processor is configured to analyze at least one frame of the first video data stream and determine whether there is a person image present in the at least one frame and at least one of a continuous color portion and a continuous texture portion as the characteristic present in the primary image.

6. The video display device of Claim 1, wherein processor is configured to analyze at least one frame of the first video data stream and determine a behavior present on the at least one frame as the characteristic present in the primary image.

7. The video display device of Claim 1, wherein the PIP display characteristic is a position of the PIP, and wherein the processor is configured to reposition the PIP to minimize overlaying a portion of the primary image when the characteristic is present in the primary image.

8. The video display device of Claim 1, wherein the PIP display characteristic is a size of the PIP, and wherein the processor is configured to resize the PIP to minimize overlaying a portion of the primary image when the characteristic is present in the primary image.

9. The video display device of Claim 1, wherein the PIP display characteristic is a transparency of the PIP, and wherein the processor is configured to render the PIP transparent to transparently overlay a portion of the primary image when the characteristic is present in the primary image.

10. The video display device of Claim 1, wherein the PIP display characteristic is a size and a position of the PIP, and wherein the processor is configured to determine the size and the position of the PIP to minimize overlaying a portion of the primary image when the characteristic is present in the primary image.

11. The video display device of Claim 1, wherein the video display device is a television.